

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 2135 of 1996

TO

FIRST APPEAL NO.2140 OF 1996

Hon'ble MR.JUSTICE S.M.SONI and

MR.JUSTICE Y.B.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

MUNICIPAL CORP.OF AHMEDABAD

Versus

NATIONAL INSURANCE CO LTD

Appearance:

MR SN SOPARKAR for appellant

MR RH MEHTA for respondents

CORAM : MR.JUSTICE S.M.SONI and

MR.JUSTICE Y.B.BHATT

Date of decision: 09/10/96

ORAL JUDGEMENT (Per Y.B. Bhatt J.)

1. Heard the learned counsel for the respective parties. Appeals admitted. Mr. R.H. Mehta, learned counsel waives service on behalf of respondents in each

of the appeals. At the request of learned counsel for the respective parties these appeals are taken up for final hearing today.

2. These are a group of First Appeals filed by the Municipal Corporation, City of Ahmedabad, challenging the judgement and order passed by the Small Causes Court in Valuation Appeals under the Bombay Provincial Municipal Corporation Act.

3. The only contention raised in the present group of appeals is that the valuation appeal has been decided on a wrong principle of law viz. by excluding the tax paid by the tenant directly to the Corporation, for the purpose of determining the Rateable Value of the premises. It is contended by learned counsel for the appellant that such exclusion is not permissible in law.

4. This question has been decided by a Full Bench of this Court in the case of Municipal Corporation of Ahmedabad Vs. Canara Bank, reported at 33(2) GLR page 1086 (to which one of us was a party).

5. It is not necessary to discuss the said decision in greater detail except to observe that the ratio laid down therein is undoubtedly, that when municipal taxes are paid by the tenant directly to the Corporation, the tenant (or the landlord) cannot contend that that amount cannot be included in the Annual Letting Value.

6. On the basis of this Full Bench decision we are bound to hold that the impugned judgements and orders passed by the lower court in the valuation appeals are contrary to settled law, and are consequently quashed and set aside.

7. These appeals are accordingly allowed with no order as to costs.
